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इस भाग में भिन्न पृष्ठ संख्या वाली आती है जिससे कि यह अलग संकलन के लिए में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 20th August, 1976:—

I

BILL No. XXXV OF 1976

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1976. Short title.

2. In article 15 of the Constitution, in clause (4), after the words "backward classes" the words "or economically weaker sections" shall be inserted. Amend-
ment of
article
15.

3. In article 19 of the Constitution,—

(a) in clause (1),—

(i) for sub-clause (c), the following shall be substituted, namely:—

"(c) to form associations or unions or bodies for collective bargaining:

Provided that such a right shall not be available to form a communal, a separatist or an anti-secular association, union or a body";

(ii) sub-clause (f) shall be omitted;

(iii) in sub-clause (g), the words "trade or business" shall be omitted;

(b) in clause (2), after the words "decency or morality" the words "maintaining communal harmony, or stopping of monopoly control over newspapers and press media" shall be inserted.

4. In article 31 of the Constitution, clauses (2), (2B) and (5) shall be omitted.

5. In article 31C of the Constitution,—

(i) for the words, brackets and figure "clause (b) or clause (c) of article 39", the words and figures "Part IV of the Constitution" shall be substituted;

(ii) for the words and figures "article 14, article 19 or article 31", the words and figure "Part III of the Constitution" shall be substituted; and

(iii) proviso to the article shall be omitted.

6. In article 32 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

"(3) Notwithstanding anything contained in clause (2), the Supreme Court shall have no power to issue directions or orders or writs in respect of any law or any action taken under such law enacted by Parliament or a State Legislature with a view to give effect to the Directive Principles laid down in Part IV of the Constitution or for curbing smuggling, black-marketing, speculation, hoarding or similar other economic offences or for ensuring the collection of taxes and other revenues or for eradicating corruption in Government services including services under the control of the Government:

Provided that all pending cases the jurisdiction of which has been excluded from the Supreme Court by the Constitution (Amendment) Act, 1976 shall abate:

Provided further that all directions, or orders or writs issued before the commencement of the Constitution (Amendment) Act, 1976, staying the implementation of land reforms, particularly ceiling laws, shall cease to operate.”.

7. For article 39 of the Constitution, the following article shall be substituted, namely:—

"39. The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, shall have the right to work and an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community, including the principal means of production, distribution and exchange, shall be progressively owned

Amend-
ment of
article
31.

Amend-
ment of
article
31C.

Amend-
ment of
article
32.

Amend-
ment of
article
39.

Certain
princi-
ples of
policy
to be
followed
by the
State.

and managed by the State so as to put the State firmly on the road of social progress;

(c) that the agricultural production shall be recast into farms such as voluntary production co-operatives and large-scale State farms, preceded by the strictest enforcement of land ceilings and distribution of land to eliminate the concentration of ownership of land in the hands of narrow circles of the rich landed gentry."

8. After article 39, the following new article shall be inserted, namely:—

Insertion of new article 39A.

"39A. In order to give effect to the principles enunciated in this Part and to bring about essential and decisive orientations, the functions of Parliament, the State Legislatures and the Services under the Union and the State shall be so reorganised that they become the prime instruments of democracy and social change.”.

Reorganis-
ation
of the
functions
of Parlia-
ment,
State,
Legisla-
tures and
services.

9. After article 46, the following new article shall be inserted, namely:—

Insertion of new article 46A.

"46A. The State shall, in consonance with secularism, fix by reservation definite quotas of jobs in Government services and also in the undertakings under the Government for the muslim community as well as for the backward and weaker sections of the community.”.

Reserva-
tion of
jobs for
the Mus-
lims and
other
backward
and
weaker
sections
in Gov-
ernment
services

10. After article 50 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 50A.

"50A. The State shall take effective measures to eliminate the power of money in elections and other democratic processes.”.

Elimina-
tion of
Power of
money in
elections
and
other
demo-
cratic pro-
cesses.

11. After article 51 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 51A.

Special Officer for Directive Principles of State Policy.

Amend-
ment of
article
124.

Amend-
ment of
article
226.

Amend-
ment of
article
311.

"51A. (1) There shall be a Special Officer for Directive Principles of State Policy to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the application of Directive Principles by the States in making laws, and to report annually to the President upon those matters and the President shall cause all such reports to be laid before each House of Parliament and sent to the Governments of the States concerned.

(3) Parliament, or a State Legislature, as the case may be, may by resolution, appoint a Committee for reviewing the report made by the Special Officer and for making recommendations in this regard to the respective Legislatures.

12. In article 124 of the Constitution, in clause (4), after the words "misbehaviour or incapacity" the words "or disregard on his part of the Directive Principles contained in Part IV of the Constitution" shall be added.

13. In article 226 of the Constitution,—

(a) in clause (1) for the words "for any other purpose", the words "for protecting rights and interests of the working people and democratic organisations against any executive or other form of excesses or any interference which *prima facie* is *mala fide* or constitutes a violation of any law to the detriment of the working people" shall be substituted;

(b) to clause (1), the following proviso shall be added, namely:—

"Provided that the High Court shall have no power to issue such directions, orders or writs in respect of any law or any action taken under such law enacted by the State Legislature, with a view to giving effect to the Directive Principles laid down in the Constitution or for curbing smuggling, black-marketing, speculation, hoarding or similar other economic offences or for ensuring the collection of taxes and other revenues or for eradicating corruption in Government services including services under the control of Government:

Provided further that all pending cases the jurisdiction of which has been taken away from the High Courts by this Act, shall abate:

Provided also that all directions, orders or writs issued before the commencement of this Act staying the implementation of land reforms, particularly ceiling laws, shall cease to operate."

14. In article 311 of the Constitution,—

(a) in para (c) of the Proviso to clause (2), after the words "in the interest of the security of the State, the words "eradication of corruption, maintenance of purity of the administration or prevention of economic offences" shall be inserted;

(b) after clause (2) the following clauses shall be inserted, namely:—

"(3) Every dispute relating to any action taken under this article without exception shall be adjudicated upon by Special

Tribunals to be set up by Parliament or a State Legislature, as the case may be, for persons serving the Union or a State.

(4) Subject to the provisions of the Constitution, Parliament, or the appropriate Legislature of a State may, by law prescribe the manner in which the Special Tribunals shall be constituted and the duties and powers of these Tribunals in relation to persons employed in civil capacities under the Union or a State.

(5) Notwithstanding anything in this Constitution but subject to the provisions of article 143, neither the Supreme Court nor any other Court shall have jurisdiction in any dispute arising out of the dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State.”.

15. In article 326 of the Constitution, for the words “twenty-one years” the words “eighteen years” shall be substituted.

Amend-
ment of
article
326.

16. In article 368 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

Amend-
ment of
article
368.

“(4) Any amendment of the Constitution passed in accordance with the requirements specified in the foregoing provisions, shall not be called in question in any court on any ground.”.

17. After Part XX of the Constitution, the following Part shall be inserted, namely:—

Insertion
of new
part
XXA.

“PART XXA

CONSTITUTIONAL COMMITTEE

368A. (1) Parliament shall have the power to constitute a Constitutional Committee consisting of members of Parliament as well as others to interpret the Constitution or decide any question of the constitutional validity of any law enacted by Parliament or a State Legislature.

Constitu-
tional
Com-
mittee.

(2) Notwithstanding anything in the Constitution, neither the Supreme Court nor any other court shall have any power or jurisdiction in respect of matters referred to in clause (1).

(3) Parliament may by law determine the number of members of the Committee and prescribe qualifications which shall be requisite for appointment as members of the Committee and the manner in which they shall be selected.

(4) The Committee shall determine their procedure and shall have such powers in the performance of functions as Parliament may by law confer on them.

18. In the Ninth Schedule to the Constitution, entries 92 and 130 shall be omitted.

Amend-
ment of
the Ninth
Sche-
dule.

STATEMENT OF OBJECTS AND REASONS

The working of the Constitution since its commencement has emphasised a need for comprehensive amendments to it to bring the fundamental law in line with the pressing requirements of socio-economic transformation and for strengthening our democratic institutions by ensuring the growing involvement of the masses with their working. Some of the changes required would brook no delay. The directive principles enshrined in the Constitution are unfortunately not enforceable. Nor are they exhaustive.

Moreover, in the event of confrontation between the directive principles and the fundamental rights enshrined in Part III of the Constitution which prevail today are not the directive principles but the fundamental rights. In fact, the directive principles, as many judgments of the Supreme Court and the High Courts would show, have become casualty to the detriment of the people and to the immense advantage of the exploiting classes. It is, therefore, necessary to ensure that in the event of such a conflict it is the directive principles, especially, those relating to radical socio-economic reforms which should prevail. It has also been the experience that although directive principles are supposed to be the fundamental principles for the governance of the country, the Government have not paid due attention or taken effective steps to see that this directive is implemented. The obstructions from the judiciary have not been the only factor; some of the policies of the Government as well as its other acts of omission and commission, too, are responsible for the failure on this score.

It is, therefore, absolutely essential not only to remove the obstacles that arise from the judiciary but also to ensure that the Government do give effect to these principles. Unfortunately, there is no provision in the Constitution for Parliament to intervene and ensure that the directive principles are faithfully acted upon by the Union as well as the State Governments.

This Bill seeks to remedy the situation, and proposes certain amendments to bring Parliament and the State Legislatures into the picture in an effective manner so that they can oversee and guide the implementation of the directive principles. It is also necessary to strengthen the directive principles, for which two important additions are proposed in the Bill for facilitating radical socio-economic measures and for the protection of the rights of the minority communities.

2. Some fundamental rights enshrined in the Constitution have been grossly misused by the communal and other reactionary forces and by the press barons. This Bill seeks to amend the relevant provisions in Part III of the Constitution to prevent such misuses of fundamental rights.

3. Right to private property as a fundamental right has come in for strong criticism by all sections of democratic public opinion. The de-

mand for the deletion of the Right to Property in the Fundamental Rights Chapter of the Constitution has also been very powerfully voiced in Parliament and in the State Legislatures. The Bill seeks to delete Right to Property provided in article 19(1)(f) of the Constitution. The Bill proposes to include Right to Collective Bargaining as a fundamental right. There is no reason why "trade or business" should also be regarded as a fundamental right. The deletion of this also is proposed. The right to property on trade or business, however, will remain as an ordinary right as in other constitutions and will be given due protection by the statutory laws of the land.

4. The Bill seeks to restrict the jurisdiction of the Supreme Court and the High Courts in certain matters relating to the socio-economic measures or actions against anti-social elements in our economic life.

5. Article 226 has been grossly misused by monopolists, landlords and other vested interests to obstruct and stall actions against them both, legislative and administrative. As a result, interest of the masses and indeed national interests have greatly suffered. All this has far outweighed the protection the working people have received under this provision. It is necessary to take away the sweeping powers of the High Court to issue such orders, directions and writs as help and otherwise serve the interests of the exploiting classes and anti-social elements. So the Bill proposes to replace the words "any other purpose" by a more limited and precise definition of the purpose for which such orders, directions and writs may be issued by the High Court to protect the democratic rights and interests of the working people and that of democratic organisations against executive and other forms of excesses.

6. There is no reason why the voting age should not be lowered to 18 years under article 326 and amendment to this effect is proposed.

7. The supremacy of Parliament *vis-a-vis* the judiciary requires to be asserted beyond all doubt and hence an amendment to this effect is proposed. The constitutional issues are of the nature of political and socio-economic measures. There is no reason why the judiciary should have any say in the matter in the name of judicial review. It should be left to the people and their elected representatives to decide such questions keeping in view the urges and aspirations of the masses and the requirements of radical socio-economic change. So, it is proposed in the Bill that the power which is now exercised by the High Courts and the Supreme Court for reviewing the constitutional amendments be completely taken away from the judiciary. Similarly, the power to decide the question of constitutional validity of any law passed by Parliament or a State legislature also be taken away from the judiciary. For the purpose of such review of legislations the Bill proposes the creation of a Constitutional Committee by Parliament.

8. In administrative matters again there is no need to involve the judiciary. So, the Bill suggests the creation of tribunals for the purpose. The tribunals should have the power to go into all the disputes which are now covered by article 311 without exception. It is, however, suggested that the scope of article 311 be widened in order to facilitate action by the Government for the eradication of corruption, maintenance of purity of the administration or the prevention of economic offences etc.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 11 of the Bill provides for the appointment of a Special Officer for the implementation of Directive Principles of State policy and sub-clause (3) of the clause provides for the appointment of a Committee for reviewing the Report made by the Special Officer. These provisions will involve expenditure from the Consolidated Fund of India. The recurring expenditure involved may be approximately rupees five lakhs per annum. The non-recurring expenditure on account of the establishment of the office of the Special Officer may be approximately rupees fifty thousand.

2. Clause 14 of the Bill provides for the constitution of Special Tribunals for adjudicating upon the disputes arising under article 311 of the Constitution by Parliament and the State Legislatures, as the case may be. Constitution of such Tribunal/Tribunals by Parliament will also involve expenditure from the Consolidated Fund of India. In this case, the recurring expenditure may be approximately rupees twenty-five lakhs per annum and non-recurring expenditure may be approximately rupees five lakhs.

3. Clause 17 of the Bill provides for the constitution of a Constitutional Committee for the interpretation of the provisions of the Constitution for deciding any question of constitutional validity of any law consisting of members of both Houses of Parliament as well as of certain other eminent persons. This will involve additional expenditure from the Consolidated Fund of India. As certain members will be selected from outside Parliament, the expenditure involved will be both of recurring and non-recurring nature. The recurring expenditure involved may be approximately rupees three lakhs per annum and non-recurring expenditure may be approximately rupees fifty thousand.

BILL No. XXXII of 1976

A Bill to protect the publication of reports of proceedings of Parliament

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

- | | |
|---|---|
| 1. (1) This Act may be called the Parliamentary Proceedings (Protection of Publication) Act, 1976. | Short title and extent. |
| (2) It extends to the whole of India except the State of Jammu and Kashmir. | |
| 2. In this Act, “newspaper” means any printed periodical work containing public news or comments on public news, and includes a news-agency supplying material for publication in a newspaper. | Definition. |
| 3. (1) Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice. | Publication of reports of Parliamentary proceedings privileged. |
| (2) Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good or which amounts to encouragement to communalism, violence and anti-national or anti-social activities. | |

Act also to apply to Parliamentary proceedings broadcast by wireless telegraphy.

4. This Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station situate within the territories to which this Act extends as it applies in relation to reports or matters published in a newspaper.

STATEMENT OF OBJECTS AND REASONS

The repeal of the Parliamentary Proceedings (Protection of Publication) Act, 1956, has created serious misgivings among the democratic sections of public opinion, while it has been hailed by the vested interests and corrupt elements in society. The repeal has also created an impression as if there is an attempt to interfere with the working of the parliamentary system in our country. Much stress has been laid and correctly too, on the supremacy of Parliament and the assertion of supremacy requires that the publication of parliamentary proceedings enjoys certain immunities. After all, the people have not only interest but also a right in knowing whatever is said in Parliament, subject, of course, to the direction of the presiding officer under the Rules of Procedure and Conduct of Business in the House. It is for the people, then, to judge what is right or wrong. Unless the publication of parliamentary proceedings are protected there is always the danger of the people being denied this right and this would be at the cost of public interest. The absence of such immunity, let it be said, works to the advantage of those who need to be exposed and fought in the interest of the society and for upholding probity in public life. Of course in some cases such immunity has been misused but this can be prevented by proper safeguards in the law providing immunity for the publication of parliamentary proceedings. There is no need to have the baby thrown with the bath water.

Hence this Bill.

BHUPESH GUPTA.

III

BILL No. XXXIV of 1976.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1976.

Insertion of new article 117A.

2. After article 117 of the Constitution, the following heading and article shall be inserted, namely:—

“Standing Committees

Constitution of Standing Committees.

117A. (1) Parliament may by law constitute Standing Committees to review the working of the different Ministries of the Government of India and to recommend the steps that shall be taken to implement the policies and other measures by the concerned Ministry.

(2) The reports of the Standing Committees shall be laid before each House of Parliament.

(3) The Standing Committees shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.”

3. After article 207 of the Constitution, the following heading and article shall be inserted, namely:—

"Standing Committees

Insertion
of new
article
207A.

207. (1) Every Legislature of a State may by law constitute Standing Committees to review the working of the different Ministries of the State and to recommend the steps that shall be taken to implement the policies and other measures by the concerned Ministry.

Constitu-
tion of
Standing
Commit-
tees.

(2) The reports of the Standing Committees shall be laid before the Legislative Assembly of the State or, in the case of a State having a Legislative Council, before both the Houses of the Legislature of the State.

(3) The Standing Committees shall determine their procedure and shall have such powers in the performance of their functions as the State Legislature may by law confer on them."

STATEMENT OF OBJECTS AND REASONS

The absence of statutory Standing Committees of Parliament and State Legislatures constitutes a big gap in India's Parliamentary system and this has stood in the way of the meaningful and efficient working of Parliament.

The present Consultative Committees are no substitute for such Committees as they have neither the power nor the authority to oversee and guide in any manner the work of the Ministry to which they are attached. The absence of the Standing Committees has severely limited Parliament's supervision over the day to day work of the administration which is very essential. This has resulted not only in the concentration of power with the bureaucracy but also in the misuse of such powers including the failure to implement the accepted national policies.

The so-called ministerial responsibility for the administration is more nominal than real. It is very necessary that better working relations between Parliament and the administration are established which the Standing Committees, vested with the necessary powers and authority, alone can ensure.

Besides, the Standing Committees will also be a mechanism for maintaining close contacts with the people which will help in securing their involvement in the working of the Parliamentary system. Finally, this will also result in saving time of Parliament in its work in the regular open sessions.

Hence the Bill.

BHUPESH GUPTA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the constitution of Standing Committees attached to each Ministry of the Government of India and as such will involve expenditure from the Consolidated Fund of India. It will not be possible at this stage to state as to how many meetings of the Committees will be held in a year but whenever a Committee meets travelling allowance and daily allowance will have to be paid to the members of the Committee. However, there may be a recurring expenditure of 4 to 5 lakhs of rupees per year. There will be no need for non-recurring expenditure.

In respect of the Standing Committees in the States, the expenditure will be met out of the Consolidated Fund of each State.

S. S. BHALE RAO,
Secretary-General.

